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Subj: Hazleton Creek Properties (sampling qualifications and newspaper article)

The purpose of this email will be to follow up on the brief telephone conversation of February 9, 2011 and specifically focus on one of these concerns that would have a significant effect on other issues at the Hazleton Creek Properties (HCP) Site. I do wish to thank you for your time on this call and realize that some of my concerns may require some review and possibly discussion. However, there are some items on specific topics in my letters that are clear "yes" or "no" answers with possibly some minor clarification text that have still not been addressed. Please note that this information is considered public information and I would request this as part of the public. The more simple questions can be addressed by email if you believe the other items of concern (background outliers, Marcellus Shale solids beneficial reuse concerns, and ash/FGD) may require further time. The latest series of my letters are dated December 29, 2010, January 14, 2011, January 16, 2011, and January 26, 2011. This series of letters follows up on past concerns and focused on one particular topic per letter and included consideration of information received under a RTK request in January 2011.

The objective of this email will be to focus on two concerns. The first should be a readily available answer on the potential radiological concerns of the Marcellus shale cuttings. This concern was included to this email due to today's article in several local newspapers (RE: "Dunmore landfill accepting gas drilling waste that may be radioactive", Times-Tribune, February 20, 2011). The questions on this item are:

1. Will the DEP have any public meetings on disposal of drill cuttings in local communities as was done in at least the southeast area?
2. Is the results and conclusions of the radiological background for the Hazleton Creek Properties site available at the DEP Northeast Regional Office (NERO) or is this another document that requires a RTK request?
3. Can DEP answer if there or other areas aside from lined landfills where disposal/beneficial reuse of Marcellus shale wastes (solids or liquids) have been (or proposed) placed or will this just require waiting for newspaper articles to bring this out?
4. Are the typical radiation (example: Ludlum Model 375P-1000 for area landfill monitoring) adequate to measure potentially radioactive parameters associated with the Marcellus formation and other marine shale formations above the Marcellus formation?

The other concern on OSHA and general qualifications for sampling of hazardous constituents on a site with known contamination and potential contamination with incoming material to be used for beneficial reuse.

I have also copied Kerry Leib on this sampling qualifications concern regarding his experience and instituting policy on Hazardous Waste Authorization (HWA) training and policy for the DEP staff. I would request information on what the current position of the DEP is on sampling qualifications in the private sector specifically with respect to the HCP manager site questions. As sole DEP representative to the various EPA RRT meetings, I believe Mr. Leib can provide some good insight to DEP and OSHA requirements for DEP mining staff and HCP personnel samplers. The specific concerns have been recently brought up in my latest correspondences dated January 16, 2011 and January 20, 2011. The specific sections have been outlined for Mr. Leib's input and easy reference on this issue. The following paragraphs provide sections of OSHA 1910 that I believe are relevant to the HCP issues as well as possibly other sites.

The HCP site has had alleged disposal of hazardous wastes, illegal disposal of PCB filled capacitors, and documented contamination in ash and other materials. This should also consider more recent information on hexavalent chromium being a contaminant of concern in gas drilling wastes, ash, and FGD material (RE: EPA Reference One and Carolyn Martienssen letter dated February 11, 2011). This potential exposure should also consider the documented lead concentrations as high as 8,330 parts per million lead and that former operations may have included disposal of hazardous wastes on this site. The available information would appear that samplers could have potential contact with hazardous substances it would appear the following OSHA standard may legally apply:

1910.120(e)(1)(i)

All employees working on site (such as but not limited to equipment operators, general laborers and others) exposed to hazardous substances, health hazards, or safety hazards and their supervisors and management responsible for the site shall receive training meeting the requirements of this paragraph before they are permitted to engage in hazardous waste operations that could expose them to hazardous substances, safety, or health hazards, and they shall receive review training as specified in this paragraph.

The **initial training and refresher training** requirements would appear to need to consider exposure to documented contamination by at least metals, potential contamination by hazardous constituents in residual waste (including material from cleanup sites), dredge, FGD, Marcellus drill cuttings, and ash. It would appear that on-site workers and possibly DEP Abandoned Mine inspectors and samplers may need the more rigid sampling requirements of 3i rather than the minimal requirements of 3ii.

1910.120(e)(3)(i)

General site workers (such as equipment operators, general laborers and supervisory personnel) engaged in hazardous substance removal or other activities which expose or potentially expose workers to hazardous substances and health hazards shall receive a minimum of 40 hours of instruction off the site, and a minimum of three days actual field experience under the direct supervision of a trained experienced supervisor.

1910.120(e)(3)(ii)

Workers on site only occasionally for a specific limited task (such as, but not limited to, ground water monitoring, land surveying, or geophysical surveying) and who are unlikely to be exposed over permissible exposure limits and published exposure limits shall receive a minimum of 24 hours of instruction off the site, and the minimum of one day actual field experience under the direct supervision of a trained, experienced supervisor.

1910.120(e)(8)

Refresher training. Employees specified in paragraph (e)(1) of this section, and managers and supervisors specified in paragraph (e)(4) of this section, shall receive eight hours of refresher training annually on the items specified in paragraph (e)(2) and/or (e)(4) of this section, any critique of incidents that have occurred in the past year that can serve as training examples of related work, and other relevant topics.

The required medical monitoring would also appear to be applicable to a site with documented and potential contamination in incoming material. Regardless of respirator requirements and monitoring/awareness of OSHA Permissible Exposure Levels (PELs) it would appear that at a minimum PADEP mining staff and HCP employees could fall within the OSHA requirements of (2)(i) cited below

1910.120

Medical surveillance --

1910.120(f)(1)

General. Employees engaged in operations specified in paragraphs (a)(1)(i) through (a)(1)(iv) of this section and not covered by (a)(2)(iii) exceptions and employers of employees specified in paragraph (q)(9) shall institute a medical surveillance program in accordance with this paragraph.

1910.120(f)(2)

Employees covered. The medical surveillance program shall be instituted by the employer for the following employees:

1910.120(f)(2)(i)

All employees who are or may be exposed to hazardous substances or health hazards at or above the established permissible exposure limit, above the published exposure levels for these substances, without regard to the use of respirators, for 30 days or more a year;

The requirements for sampling of environmental media as on-site soils known to be contaminated would appear to be a valid concern at the HCP site. The statement in the referenced documentation also refers to having a site manager collect (chain of custody forms in limited NERO information on "background" sampling) soil samples but this may also apply to DEP staff not trained for sampling of hazardous constituents.

I realize the Department has been evaluating the requirements for staff involved with sampling environmental media for hazardous constituents. I am not sure if this has been resolved or if the DEP has evolved a set of final standard operating procedures for staff involved in this type of sampling. If these procedures and requirements have been finalized, I would request a copy of these if possible or the Internet link to download this material. The basic awareness level training for chemical, radiological, hazmat and biological responses are stated to be a priority for safety training by the Environmental Protection Agency (USEPA) Regional Response Team (<http://www.rrt3.nrt.org>) and would appear to be a very significant concern at the HCP and likely other "beneficial reuse" sites.

I am very interested in the DEP response on the training as well as the on-going OSHA refresher standards considering what is necessary to sample soils, water and other media (with the exception of waste piles and drums) for non DEP environmental workers. Again, the above is my interpretations of possible OSHA requirements so feel free to point out any mistakes. I also look forward to responses on the other items referenced in the opening paragraphs.

Reference One: U.S. EPA, Characterization of Coal Combustion Residues from Electric Utilities – Leaching and Characterization Data (EPA-600/R-09/151), at 7 (Dec. 2009)